

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
DONALD J. BALE,

Appellant,

v.

OLYMPIC AIR POLLUTION  
CONTROL AUTHORITY,

Respondent.

PCHB No. 698

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER being an appeal of a \$100 civil penalty for an alleged failure to have a permit for an open fire and burning of prohibited material in an open fire in violation of respondent's Regulation I; having come on regularly for hearing before the Pollution Control Hearings Board on the 22nd day of April, 1975, at Lacey, Washington; and appellant, Donald J. Bale, appearing pro se and respondent, Olympic Air Pollution Control Authority, appearing through its attorney, Fred D. Gentry; and Board members present at the hearing being Chris Smith, presiding officer, W. A. Gissberg and Walt Woodward and the Board having considered the

1 sworn testimony, exhibits, records and files herein and having entered  
2 on the 24th day of April, 1975, its proposed Findings of Fact, Conclusions  
3 of Law and Order, and the Board having served said proposed Findings,  
4 Conclusions and Order upon all parties herein by certified mail, return  
5 receipt requested and twenty days having elapsed from said service; and


6 The Board having received no exceptions to said proposed Findings,  
7 Conclusions and Order; and the Board being fully advised in the premises;  
8 now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
10 Findings of Fact, Conclusions of Law and Order, dated the 24th day of  
11 April, 1975, and incorporated by this reference herein and attached  
12 hereto as Exhibit A, are adopted and hereby entered as the Board's  
13 Final Findings of Fact, Conclusions of Law and Order herein.

14 DONE at Lacey, Washington, this 27th day of May, 1975.

15 POLLUTION CONTROL HEARINGS BOARD

16   
17 CHRIS SMITH, Chairman

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19 W. A. GISSBERG, Member

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21 WALT WOODWARD, Member

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26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER



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POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
DONALD J. BALE, )  
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OLYMPIC AIR POLLUTION )  
CONTROL AUTHORITY, )  
 )  
Respondent. )

PCHB No. 698

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$100 civil penalty for an alleged failure to have a permit for an open fire and burning of prohibited material in an open fire in violation of respondent's Regulation 1, came before the Pollution Control Hearings Board (Chris Smith, presiding officer, W. A. Gissberg and Walt Woodward) as a formal hearing in the Board's office in Lacey, Washington on April 22, 1975.

Appellant Donald J. Bale appeared pro se; respondent appeared by and through its attorney Fred D. Gentry.

Witnesses were sworn and testified. Exhibits were admitted.

EXHIBIT A

1 From testimony heard and exhibits examined, the Pollution Control  
2 Hearings Board makes these

3 FINDINGS OF FACT

4 I.

5 Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3rd  
6 Ex. Sess., has filed with this Board a certified copy of its Regulation 1  
7 containing respondent's regulations and amendments thereto.

8 II.

9 On July 2, 1974 in Raymond, Pacific County, Washington, appellant  
10 caused some of the materials derived from the demolition of a building  
11 to be ignited. Included therein was linoleum and tarpaper which  
12 normally emits dense smoke. The fire was approximately ten feet in  
13 diameter.

14 II.

15 Appellant, in similar situations, had the assurance of certain  
16 officials of Raymond that he needed only that City's permission, which  
17 he obtained in oral form, to lawfully conduct the fire. He did, however,  
18 know that materials made of petroleum products could not be burned. .

19 III.

20 Respondent caused appellant to be notified of the issuance of a  
21 Notice of Violation of Section 9.01 of its Regulation 1 and the imposition  
22 of a civil penalty in the amount of \$100.00 for having no permit and  
23 burning prohibited material.

24 IV.

25 Section 9.01(b) of respondent's Regulation 1 prohibits such open  
26 burning without a permit therefor from respondent. Section 9.01(g)

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER 2

prohibits any open fire containing petroleum products.

V.

Any Conclusion of Law hereinafter recited which is deemed to be a Finding of Fact is adopted herewith as same.

From these Findings, the Pollution Control Hearings Board comes to these

CONCLUSIONS OF LAW

I.

Appellant violated respondent's Regulation 1, Section 9.01. He relied on the erroneous advice given him by the officials of the City of Raymond. He believed, in good faith, that he needed no other permit. The same good faith cannot, however, be attributed to his burning of products made from petroleum.

II.

Any Finding of Fact recited herein which is deemed to be a Conclusion of Law is adopted herewith as same.

Therefore, the Pollution Control Hearings Board issues this

ORDER

Under the circumstances, although the violations are affirmed, \$50 of the civil penalty is suspended on condition that appellant does not incur any other violations of respondent's regulations within one year from the date of this Order.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 DONE at Lacey, Washington this 24th day of April, 1975.

2 POLLUTION CONTROL HEARINGS BOARD

3 Chris Smith  
4 CHRIS SMITH, Chairman

5 W. A. Gissberg  
6 W. A. GISSBERG, Member

7 Walt Woodward  
8 WALT WOODWARD, Member

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27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER